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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,093	12/28/2001	Clifford Jackson Ellis	16222	1715

23556 7590 11/17/2003

KIMBERLY-CLARK WORLDWIDE, INC.  
401 NORTH LAKE STREET  
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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/17/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/035,093	<b>Applicant(s)</b> ELLIS ET AL.	
	<b>Examiner</b> William P. Watkins III	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 7-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

Art Unit: 1772

**DETAILED ACTION**

1. The rejections under 35 U.S.C. 102 in the first office action are withdrawn in view of applicant's amendments and arguments.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 7-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. (U.S. 5,851,935) or Quantrille et al. (U.S. 5,431,991) in view of Abuto et al. (U.S. 6,096,668).

Srinivasan et al. teaches the use of two unbonded carded webs joined to a thermoplastic elastic layer of each side (col. 6, lines 30-40, col. 5, lines 15-25). Quantrille '991 teaches the use of a thermoplastic elastic web between two unbonded carded webs (col. 7, lines 5-40). Abuto et al. teach the use of

Art Unit: 1772

polyolefin elastomers as a good material for elastic films joined to nonwoven webs (col. 9, lines 15-40, col. 6, line 35 to column 7, line 40). The instant invention claims the use of polyolefin elastomers in an elastic film bonded to an unbonded nonwoven web. It would have been obvious to one of ordinary skill in the art to make the elastic films of Srinivasan et al. or Quantrille et al. out of polyolefin elastomers in order to substitute a different type of thermoplastic elastomer equivalent to those used in the base references because of the teachings of Abuto et al. It further would have been obvious to vary the basis weights of the laminate depending on the density of the material desired for the final product application. Selection of materials for the carded fibers from the options given in the references is taken as being within the ordinary skill of the art absent unexpected results. Quantrille et al. teaches a bonding additive (col. 6, lines 40-50) as well as conjugate binding fibers (col. 10, lines 10-25).

4. Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quantrille et al. (U.S. 5,431,991) in view of Chappell et al. (U.S. 6,027,483).

Art Unit: 1772

Quantrille '991 teaches the use of a thermoplastic elastic web between two unbonded carded webs (col. 7, lines 5-40) as well as formation of the elastic layer directly in line and by extrusion and the use of thermal adhesive lamination and other well known processes (col. 9, lines 5-20, col. 5, lines 25-35). Chappell et al. teaches the use of extrusion lamination using partially molten film as a known way of bonding web materials. The instant invention claims the use of extrusion bonding to join a carded unbonded web to an elastic film. It would have been obvious to one of ordinary skill in the art to have used extrusion bonding to laminate the webs and film of Quantrille in order to provide an alternate well known method of bonding because of the teachings of Chappell et al.

5. Applicant's arguments filed 08 September 2003 have been fully considered but they are not persuasive.

Applicant argues no teaching of polyolefin elastomers and extrusion bonding. These arguments are moot in view of the new grounds of rejection given above. Applicant also argues Srinivasan et al. does not have non-bonded webs because of col. 2, lines 50-55, which states that the webs are carded and spot bonded. The examiner believes that this passage must be read

Art Unit: 1772

together with col. 6, lines 30-40, which states that the carded webs are formed and laid on the elastic film and all three layers consolidated by thermal spot bonding. This is the same process described on page 17 of the instant specification. The position of the examiner is that the spot bonding of the carded webs described in the passage cited by applicant in Srinivasan et al. results from concurrent spot bonding of the webs and elastic film and not pre-bonding of the carded webs.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 703-308-2420. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

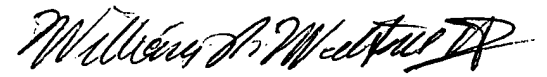
Application/Control Number: 10/035,093

Page 6

Art Unit: 1772

WW/ww

November 13, 2003

A handwritten signature in black ink, appearing to read "William P. Watkins III". The signature is stylized with a large, looped "W" and a trailing flourish.

**WILLIAM P. WATKINS III  
PRIMARY EXAMINER**